

Notice of Allowability

Application No.

09/801,951

Examiner

Wei Y. Zhen

Applicant(s)

DURR ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed on 8/5/2005.
2. ☒ The allowed claim(s) is/are 1,3-20,22-38 and 40-45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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1. This office action is in response to the RCE filed on 8/5/2005.
2. Claims 1, 3-20, 22-38, 40-45 are allowed.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Paul Heynssens, Reg. No. 47,648 on 9/14/2005.

The application has been amended as follows:

In the claim:

Claim 20, line 1, change "A computer-readable medium" to "A computer readable storage medium".

Claim 31, line 1, change "A computer-readable medium" to "A computer readable storage medium".

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance: the cited prior arts taken alone or in combination fail to disclose, in combination with other claimed limitations, modifying executable binary code of the ones of the original set of program segments to include an exception inducing code, the exception inducing code comprising executable binary code; and

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creating an association between ones of the set of original program segments and ones of the set of substitute program segments, each association comprising a program matching criteria for determining whether to execute the substitute program segment depending on an identity of a calling module of the original program segment as recited in independent claims 1 and 20 and as pointed out by the applicant on pp. 16-17 of the remark filed on 8/5/2005; the cited prior arts taken alone or in combination fail to disclose, in combination with other claimed limitations, modifying executable binary code of the copy of the executable program in active process space to include an exception inducing code, wherein the exception inducing code comprises executable binary code that induces execution of an exception handling routine for determining and executing at least a corresponding one of the set of modifications, and associating, with each of the set of modifications, a program matching criteria for determining whether to execute the modified executable binary code depending on an identity of a calling module of the modified executable binary code as recited in independent claim 12 and as pointed out by the applicant on pp. 16-17 of the remark filed on 8/5/2005; the cited prior arts taken alone or in combination fail to disclose, in combination with other claimed limitations, calling, from a calling module having an identity, an original program segment of the active executable program that has been modified to include a previously placed exception inducing code, the previously placed exception inducing code comprising executable binary code that includes an exception handled by an exception handling routine; detecting the previously placed exception inducing code as recited in independent claims 13 and 31 and as pointed out by the applicant on pp. 18-19 of the remark filed on 8/5/2005; the cited prior arts taken alone or in combination fail to disclose, in combination with other claimed limitations, a program code modifier for altering, within the

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active process space, executable binary code of the ones of the original set of program segments to include an exception inducing code, the exception inducing code comprising executable binary code; and a substitution list including entries describing an association between ones of the set of original program segments and ones of the set of substitute program segments, each association comprising a program matching criteria for determining whether to execute the substitute program segment depending on an identity of a calling module of the original program segment as recited in independent claim 38 and as pointed out by the applicant on p. 15 of the remark filed on 8/5/2005.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wei Y. Zhen whose telephone number is (571) 272-3708. The examiner can normally be reached on Monday-Friday, 8 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wei Zhen



WEI Y. ZHEN
PRIMARY EXAMINER